

U.S. DISTRICT COURT
N.D. OF N.Y.
FILED
December 3, 2004

LAWRENCE K. BAERMAN, CLERK

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

General Order #12



CASE ASSIGNMENT PLAN FOR THE NORTHERN DISTRICT OF NEW YORK

Effective as of January 1, 2005

- A. Purpose.** The purpose of the Assignment Plan is to implement the provisions of 28 U.S.C. Section 137 by providing an equitable system for randomly dividing the caseload among the judges, making necessary adjustments to caseload assignments and providing a basis for monitoring the operation of the case assignment system.
- B. Administration.**
1. The Assignment Plan shall be administered by the clerk under the supervision of the Chief Judge. Modifications to case assignment may be made by the Chief Judge with the approval by majority vote of the district judges.
- C. Case Numbers.**
1. Each case commenced in or transferred to this district shall be assigned a case number by the clerk upon filing. A separate sequence of case numbers shall be maintained for criminal, civil, and miscellaneous cases. Civil case numbers shall be preceded by the letters “CV”, criminal cases by the letters “CR” and miscellaneous cases by the letters “MC”. Each case number shall consist of the last two digits of the year in which the case is filed followed by a sequential number for each case. On the first business day of each calendar year, the sequential number will revert to “1.”
- D. Assignment of Civil Cases.**
1. Civil Cases for which venue lies in one of the counties listed shall be assigned to those judges designated to hold court in that location.
 - A. Albany Civil Filing Division: Albany, Columbia, Greene, Rensselaer, Saratoga, Schenectady, Schoharie, Ulster, Warren, and Washington.
 - B. Binghamton Civil Filing Division: Broome, Chenango, Delaware, Otsego, and Tioga.
 - C. Syracuse Civil Filing Division: Cayuga, Cortland, Madison, Onondaga, Oswego and Tompkins.
 - D. Malone/Plattsburgh Civil Filing Division: Clinton, Essex and Franklin.
 - E. Utica Civil Filing Division: Fulton, Hamilton, Herkimer, Montgomery and Oneida.
 - F. Watertown Civil Filing Division: Jefferson, Lewis and St. Lawrence.

- G. District-Wide Filing Division. Prisoner Civil Rights, Habeas Corpus, Bankruptcy Appeals and Social Security Cases shall be assigned on a random basis to judges and magistrate judges from all divisions.
 - H. New Civil Actions Requesting Emergency Relief (Orders to Show Cause) and Forfeiture Actions. New civil actions which request the issuance of an order to show cause at the time of filing shall be assigned on rotation to the resident district court judge(s) and magistrate judge(s) from the appropriate civil filing division. Forfeiture actions which require a return date in the city where the action is filed shall also be assigned on rotation to the resident district court judge(s) and magistrate judge(s) from the appropriate civil filing division.
1. Civil cases shall be assigned blindly and at random by the clerk by means of a manual, automated or combination system approved by the judges of the court. Such system will be designed to accomplish the following:
- A. Random and blind assignment of cases.
 - B. An approximately equal distribution of newly filed cases to each of the active judges of the court and a percentage to the Senior Judges as directed by the Chief Judge.
 - C. A high level of security so as to reasonably avoid prediction of the results of any case assignment.
 - D. A system of credits and debits to adjust for reassignments of cases among and between judges.

E. Assignment of Criminal Cases.

1. Criminal Cases for which venue lies in one of the counties listed shall be assigned to those judges designated to hold court in that location.
 - A. Albany Filing Division: Albany, Columbia, Fulton, Greene, Hamilton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, Ulster, Warren, and Washington.
 - B. Binghamton Filing Division: Broome, Chenango, Cortland, Delaware, Otsego, Tioga, and Tompkins.
 - C. Syracuse Filing Division: Cayuga, Herkimer, Madison, Oneida, Onondaga, Oswego, Jefferson, Lewis, and St. Lawrence.
 - D. Malone/Plattsburgh Filing Division: Clinton, Essex and Franklin.
2. Criminal cases shall be assigned blindly and at random by the clerk by means of a manual, automated or combination system approved by the judges of the court. Such system will be designed to accomplish the following:
 - A. Random and blind assignment of cases.
 - B. An approximately equal distribution of newly filed cases.
 - C. A high level of security so as to reasonably avoid prediction of the results of any case assignment.
 - D. A system of credits and debits to adjust for reassignments of cases among and between judges.
 - E. Misdemeanor Cases shall be assigned to a magistrate judge only in the first instance. If the parties do not consent to proceed before the assigned Magistrate Judge, the Clerk shall assign a District Court Judge on rotation from the appropriate division where the case was brought.

F. Assignment of Miscellaneous Cases.

1. Miscellaneous Cases for which venue lies in one of the counties listed shall be assigned to those judges designated to hold court in that location.
 - A. Albany Miscellaneous Filing Division: Albany, Columbia, Greene, Rensselaer, Saratoga, Schenectady, Schoharie, Ulster, Warren, and Washington.
 - B. Binghamton Miscellaneous Filing Division: Broome, Chenango, Delaware, Otsego, and Tioga.
 - C. Syracuse Miscellaneous Filing Division: Cayuga, Cortland, Madison, Onondaga, Oswego and Tompkins.
 - D. Malone/Plattsburgh Miscellaneous Filing Division: Clinton, Essex and Franklin.
 - E. Utica Miscellaneous Filing Division: Fulton, Hamilton, Herkimer, Montgomery and Oneida.
 - F. Watertown Miscellaneous Filing Division: Jefferson, Lewis and St. Lawrence.
2. Miscellaneous cases shall be assigned blindly and at random by the clerk by means of a manual, automated or combination system approved by the judges of the court. Such system will be designed to accomplish the following:
 - A. Random and blind assignment of cases.
 - B. An approximately equal distribution of newly filed cases.
 - C. A high level of security so as to reasonably avoid prediction of the results of any case assignment.
 - D. A system of credits and debits to adjust for reassignments of cases among and between judges.

G. Reassignment of Cases.

1. **Related Cases.** Upon the filing of a notice of related cases, all involved cases will be submitted by the clerk to the judge to whom the earliest filed case is assigned who shall advise the clerk whether such cases are related. If such cases are related the clerk shall reassign them to the judge to whom the earliest-filed case is assigned, give the transferee judge a credit in the appropriate category for each case so reassigned and give the transferor judge a debit in the appropriate category for each case so reassigned.

If at the time of filing an action, Section VII of the Civil Cover Sheet (JS44), or the Criminal Information Sheet, indicates that a related action is pending before this Court, the clerk shall assign the action to the corresponding judge as noted on the cover sheet. The new action shall be submitted to the assigned judge with the related case files for review. If the assigned judge determines that the new action is not related to the original case(s), the clerk shall be directed to reassign the case. The clerk shall give the transferee judge a credit in the appropriate category for each case so reassigned and will give the transferor judge a debit in the appropriate category for each case reassigned.

2. **Disqualification.** If a judge is disqualified to hear a case assigned to him, the judge will provide the clerk with a disqualification order and the clerk shall reassign the case at random, and the clerk shall give the transferee judge a debit in the appropriate category.
3. **Reassignment of cases to a different division.** Whenever a case is transferred to a different division, the transferring judge may retain the case for further proceedings by him at that location, or the case may be reassigned. In the event the case is reassigned to another judge, a credit will be given in the appropriate category to the transferee judge and a debit in the appropriate category will be given to the transferor judge.
4. Cases may be reassigned between judges on written order signed by the transferring and accepting judges.
5. With the approval of the court, the clerk may make such other assignments, reassignments or related orders as are conducive to the equitable division and just, efficient and economical determination of the business of the court.

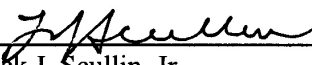
- H. Senior Judges.** A senior judge of this court may participate in the regular assignment of cases to the extent that he is willing and able to do so. The Chief Judge shall issue appropriate instructions to the clerk to effectuate such participation. The Chief Judge may, from time to time, after consultation with the judge to whom a case is assigned, reassign a case to a senior judge who is willing and able to accept such reassignment.
- I. Visiting Judges.** Whenever a judge is assigned to serve as a visiting judge in this court, the Chief Judge shall, prior to the arrival of such judge, make an order forming his calendar by reassignment from other judges cases designated by them as available for transfer. Selection of cases for this purpose shall be made upon a basis equitable among all the judges of this court and after consultation with them.
- J. Newly Appointed Judges.** When a judge is appointed to serve on this court, the clerk shall, under the direction of the Chief Judge, prepare a pending caseload for him or her, representing as nearly as possible the average pending caseload of an active judge at the time, cases may be transferred to the newly appointed judge in equal allotments over a period of time to be decided by the Chief Judge. Upon approval of such caseload by the Chief Judge, such cases will be reassigned to the newly appointed judge.
- K. Unavailability or Illness of a Judge.** When a judge becomes unavailable for the assignment of cases due to retirement, resignation, illness or death, the Chief Judge shall order the reassignment of such judge's pending cases to the other judges of this court on an equitable basis.
- L. Review of Assignments.**
1. This Plan is adopted by the court pursuant to 28 U.S.C. Section 137 only to provide for the orderly conduct of its business and does not create any right or privilege to any litigant to demand or challenge the assignment of a case.

M. Reassignment Register and Reports.

1. The clerk shall maintain an assignment register in a form approved by the court containing a record of all cases assigned to each of the judges of the court or to any visiting judge, all reassignments among judges.
2. At any time when requested by the court, the clerk shall prepare and distribute to the judges of the court a report showing the number of cases assigned to and pending before each judge and such other information as the Chief Judge may direct.

Dated: December 3, 2004

SO ORDERED



Frederick J. Scullin, Jr.
Chief United States District Court Judge